

**The Importance of Change Management
for BC First Nations' Treaty Implementation**

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Abstract

This paper examines principles of change management and Treaty Agreements between First Nations in British Columbia and the governments of Canada and British Columbia. This combination is then examined to identify recommendations for Treaty implementation.

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Introduction

Treaty-making in British Columbia is a multi-million dollar business that seeks to establish an order between aboriginal peoples and non-aboriginal governments; to provide certainty over land tenure; to provide benefit to First Nations, government, industry, and people; and to write and close a chapter in Canadian history. As a burgeoning industry, Treaty-making is forging new ground; creating new systems of governance; and agreements are leading to value creation in industries within or bordering claim areas. Treaty-making is also taking considerable time, effort, and cost, and there is growing concern that the process itself needs renewal. This paper seeks to establish the importance of change management for Treaty implementation.

Given that businesses have always experienced a host of factors influencing their operations, the study of corporate change management is lengthy and comprehensive. Theorists analyze efforts at corporate renewal, or changes in strategy and vision to determine principles for success. Much has been covered in the analysis for successful change including communications by management, relationships between employees, and the role of stakeholders. There are studies of public and private organizations which call for differences in implementing change, and also highlight some similarities that may act as catalysts for success.

Perhaps the greatest change will see the return of indigenous thought and cultural laws of First Nations seeking Treaties. In the Nisga'a culture, advice is called *Yuuhlimk'askw*. Here one form is explained by Nisga'a Elder and Educator, Verna Williams,

“When an Elder or Parent saw a young person acting irresponsibly in the community, they would wait until suppertime. When the youth began to eat his meal, the Elder would

gently describe what he saw, explain why it was the wrong thing to do, and suggest a proper course of action. This advice was given in the gentlest possible way, as a gift. If the youth was receptive, and took the advice to heart, his tears would fall into his food.

By consuming the tears, the advice would stay with him.”

Yuuhlimk'askw ensures that the next generation is prepared to lead when their time comes to do so (Nisga'a Nation et al, 2004).

Purpose

The purpose of this research project is to examine the implementation of Treaties and, more importantly, pending Treaties. Using a comparative study between experiences of recent Treaty Nations and those preparing for ratification votes, and principles of corporate change, it is intended that this paper also provide tools and recommendations, and highlight practices from First Nations themselves, for implementation plans. The basic premises of the paper are:

1. The study of corporate change management provides tested examples of successful change efforts;
2. Recent Implementation plans negatively influence pending Implementation plans;
3. Prior testing of Implementation plans is required; and
4. Political will enables implementation plans to succeed.

Implementation plans represent the work of the Treaty, and the clauses, direction, and decisions of the Agreement must be fully implemented in order for the Treaty to

succeed. A purpose of this examination is to determine whether the plan is written to deliver an effective treatment by way of changes required of the First Nation and of government. A sustained effort to coach the process must be enabled and the forces establishing the agreements must continue to act beyond the celebration of the Treaties.

The second purpose is to examine tests on implementation. A testing of the plans subsequent to agreement will highlight issues not necessarily identified in drafting, and a recurring test may provide changes to enable lasting success. This would include the presence of working support programs, sufficient staffing and funding levels, and audits on all three to continually monitor whether the goals of the Treaty are achieved.

Literature Review

The following is a set of literature aimed at examining Treaties in light of principles of change management. The material cited includes discussion of implementation portions of modern Treaty Agreements. The literature review material also analyses change in corporate and government settings.

Treaty Implementation

As in each modern Treaty, the Implementation chapter of the Nisga'a Final Agreement identifies obligations and activities arising from the Agreement (Nisga'a Final Agreement, 2000). The implementation of the Nisga'a Treaty includes an Implementation Plan to "guide the Parties on the implementation of the Nisga'a Final Agreement" (Nisga'a Implementation Plan, pp.1). The Implementation Plan, a 285-page document, is supported by the 252-page Treaty although the Plan is not part of the Final

Agreement itself. The Implementation Plan lists all those things stated in the Final Agreement that must be implemented. The Implementation Plan also directs the timing, in respect of dates, schedules and/or frequency, of each implementation activity.

The Implementation Plan also sets out a committee mechanism staffed by the Parties (Nisga'a, Canada, and British Columbia) to "provide a forum for the Parties to discuss the implementation of [the] Agreement" (Nisga'a Final Agreement, pp. 248) with a term of ten years. The Nisga'a Implementation Committee is directed to follow the "Guidelines for the Operation of the Implementation Committee" (Nisga'a Implementation Plan, Annex 'C'). To facilitate the work of the Implementation Committee, it is also directed to use "Activity Sheets . . . [and] a Communications Strategy" (Nisga'a Implementation Plan, pp. 2) to fulfill its mandate.

The Implementation Plans for and proposed for the Lheidli T'enneh First Nation, Maa-nulth First Nations, In-SHUCK-Ch First Nations, Sliammon First Nation, and the Tsawwassen First Nation contain very similar Implementation chapters as well with wording being the only difference. Each is a 10 year plan, and each is a repetitive version of the Treaties in the sense that each is a list of tasks. Each task is divided amongst the parties depending on the clause and who is responsible for implementing the specific clause. For example the task of instituting administrative structures falls to the First Nation, while an issue such as the registering of lands would be a joint effort of the First Nation and the Province. Review procedures are not built into the plans at short intervals due to the nature of finality surrounding the Treaties. The Treaties are expected to address the issues, and the Implementation Plans are expected to simply carry out the manner in which the issues are addressed.

British Columbia Treaty Commission

The British Columbia Treaty Commission was established in 1993 soon after British Columbia joined the negotiations of the Nisga'a Agreement. The mission of the British Columbia Treaty Commission is to facilitate Treaty negotiations through a structured, methodical approach to reconcile Government policy with First Nations self government models. It also "oversees the negotiation process to make sure that the parties are being effective and making progress in negotiations" (British Columbia Treaty Commission website). Presently, there are 57 First Nations, and since some First Nations conduct negotiations together, there are 47 sets of negotiations (British Columbia Treaty Commission, 2006).

The British Columbia Treaty Commission appoints commissioners to each negotiation table, and the attendance of the Commissioners is dependent upon the progress of talks. The First Nations Summit of British Columbia appoints 2 members, selected by election of Chiefs, while Canada and British Columbia each appoint 1 Commissioner; and the 4 Commissioners then appoint the Chief Commissioner who is not one of them.

The British Columbia Treaty Commission also outlines a six step process: (1) the First Nation issues a Statement of Intent to negotiate; (2) the parties, Canada, British Columbia and the First Nation name negotiators, mandates, and process for addressing overlapping claims; (3) the parties arrive at a Framework Agreement which sets out the agenda and timetable for negotiations; (4) substantive negotiations commence and the parties arrive at an Agreement-in-Principle; (5) negotiations then move on to finalize and ratify the Final Agreement with each principal group issuing a vote of the First Nations

citizenry, the British Columbia Legislature, the House of Commons and the Senate; and (6) the Treaty is implemented.

The Treaty Implementation Plans are a requirement of comprehensive claims as directed by the Minister of Indian Affairs and Northern Development ("INAC"). This policy is carried out by the Implementation Branch of INAC in two parts: "the development of an implementation plan and the monitoring and management of actual implementation activities" (INAC website, 2007). This Directorate is also responsible for the negotiation of Implementation Plans and financial agreements with other parties of Agreements.

Tom Molloy was the Chief negotiator for Canada in the negotiations leading to the Nisga'a Treaty. His book, *The World is Our Witness*, captures the atmosphere of the months, day and hours leading up to the initialing of the Nisga'a Final Agreement. He also contemplates the work required of the Final Agreement and what he observed as the Nisga'a's dreams for self government. His book contains a forward written by John Ralston Saul who recounts Canadian history, which Saul terms the "Triangular foundation of Canada" (Molloy, 2000) which, he says, is the British, French and Aboriginal Nations each shaping the founding of Canada. Molloy observes also that First Nations in Canada have always, with very few exceptions, sought redress of their rights through diplomacy and the law.

The history of European arrival in North America is briefly described by Anthony Hall who wrote *A Note on Canadian Treaties* in Molloy. Hall, of the University of Lethbridge, describes the Nisga'a Treaty as "the most recent in a long series of innovations to address legally one of the world's most pressing and pervasive human

rights issues whose origins lie more in the events of 1492 than 1998” (Molloy, 2000). He then sets out to describe the events, over 6 centuries, wherein “one European empire after another . . . struggled to find rationales for the overseas extensions of their sovereigns’ territorial claims” (Molloy, 2000). The Nisga’a Treaty, he says, is the natural result of those centuries of legal debate.

Hall also presents the historical First Nations Treaties in North America and modern Canadian First Nations Treaties. He says that, for the aboriginal side, the agreements call for the establishment of “a range of new institutions to help liberate indigenous peoples from the weight of an onerous colonial system that has dominated their lives, often for many generations” (Molloy, 2000). On this basis, Hall concludes that modern First Nations are also seeking the advancement of self government to develop infrastructures capable of generating an economy for self sufficiency (Molloy, 2000).

Molloy characterizes the nature of the negotiations in the federal arena stating that every federal government and bureaucrat had to have its say especially if it was to be affected by the Nisga’a Agreement. He calls this “a necessary, if exceedingly frustrating, exercise” (Molloy, 2000). He describes the generations of Nisga’a negotiators since 1887 who each sought to resolve the land question issue with Canada and British Columbia to no avail until 2000. Molloy provides some context surrounding the government positions, and the various, sometime contradictory, policies that have shaped the responses to First Nations land claims. He ends by listing provincial and Canada Supreme Court decisions and the extent to which they defined and re-defined the legal bases for aboriginal rights within Canada.

The World is Our Witness also presents a brief explanation of the various clauses in the Nisga'a Treaty, and each chapter is given a description as well. Molloy notes that each chapter was the result of working groups established by the Nisga'a, British Columbia and Canada to address the various, often expert, issues. He notes that through the use of experts, each party was able to come to an understanding of the issues; and characterizes the Treaty as a compromise between expectations and reality (Molloy, 2000). Since it would be the first of many Agreements projected for British Columbia, Molloy says that federal "responses and positions had to be carefully nuanced to minimize possible prejudice in future negotiations" (Molloy, 2000).

Penikett analyzes the present situation of Treaties in British Columbia in his book titled *Reconciliation*. In it he provides an historic background similar to that provided by Hall in Molloy albeit with significantly more description of the often destructive exchanges between North American Indigenous tribes and the first officials from Spain, Portugal, Britain, and France. The picture painted by Penikett is quite disturbing, but one that provides some understanding and context of the issues faced by First Nations and the successor governments of the US, Canada, and their various agencies.

The experiences of the Inuit, the Cree of Quebec of James Bay, and the De'ne of the Yukon are also examined by Penikett for their processes to arrive at Treaties. He notes that these Agreements also shaped how governments would deal with Treaty negotiations and each established benchmarks for future talks. He notes also that the political maturation process was required to facilitate the change in attitudes towards First Nations, and thus permitting Treaties to be negotiated (Penikett, 2006). He notes that part of the context in which these processes occurred was global in nature and states,

“Aboriginal political agitation in Canada is part of an international movement of indigenous consciousness, giving treaty making a new urgency and relevance” (Penikett, 2006, pp. 243).

Penikett also examines the history of the land question issue for First Nations in British Columbia, and the numerous government policies, regulations, the Indian Act, and the modern Canadian Treaties as the basis for the current need of successful Treaty negotiations and implementation. He documents court decisions which established and re-affirmed the instructions to negotiate Treaties to achieve accommodation rather than assimilation and reconciliation rather than conquest (Penikett, 2006). In the 2000 Campbell decision (*Campbell v. British Columbia (Attorney General)* [2000] 4 C.N.L.R. 1 (B.C.S.C.)), the Supreme Court of British Columbia stated that the aboriginal right to self government could not be extinguished but rather defined in Treaties. He references the need for ‘de-colonization’ of indigenous tribes and how the successful Nations are instituting that process themselves often through Treaty-making.

Penikett also comments on the seeming lack of creativity on the part of government negotiators in seeking to find common ground in Treaty talks. He quotes Nisga’a legal counsel Jim Aldridge: “I remember this comic strip when I was a kid. The husband comes home and asks, ‘What’s for supper?’ and his wife says, ‘You name it and you can have it.’ Husband says, ‘Great, steak.’ Wife, ‘No.’ Husband says, ‘Turkey.’ Wife, ‘No.’ Husband says, ‘Wait a minute, you said if I name it I can have it.’ Wife: ‘You haven’t named it yet.’ That’s what it felt like at the Nisga’a table.” (Penikett, 2006, pp.164).

Similar reports come from the other Treaty Nations in Canada who report that their issues are not being dealt with even though they have modern Treaties. The Inuit have forced the issue to the courts in seeking to define government obligations beyond their Treaty and Implementation Plans which is similar to the Alaskan experience where Treaties have resulted in “years of costly litigation” (Penikett, 2006, pp.177). In a conference intended for discussion on modern Treaties and their Implementation in October 2003 titled *Redefining Relationships*, Penikett says all groups “had uncovered common problems of indifferent negotiations, poor federal coordination, dysfunctional dispute resolution, and inadequate funding” (Penikett, 2006, pp. 183).

From this conference emerged a letter from the Treaty Nations to then-Prime Minister Paul Martin requesting his assistance with the implementation of Treaties. Penikett takes this a step further when he suggests the establishment of a Secretariat to oversee the Implementation of Treaties and the removal of Treaty responsibilities out of the department of Indian Affairs and Northern Development. Penikett notes that Treaty talks only advance when ‘closers’ are brought in or when the Minister takes an active lead in the negotiations, and without “that kind of commitment, the broken promises will continue to accumulate, and a generation of hard work by Aboriginal and government negotiators could unravel before our eyes” (Penikett, 2006, pp. 184).

Penikett’s recommendations are based on his involvement with a “bottom-up planning exercise called Yukon 2000” (Penikett, 2006) in 1985. This exercise led to “broad consensus through a series of public conferences, sector workshops for forestry, fishing, mining, tourism, and agricultural interests, and community meetings” (Penikett, 2006). Yukon 2000 and the Yukon Treaty negotiations were held concurrently and each

significantly influenced the other says Penikett. Without this effort, he surmises, the Treaty negotiations would have gone on much longer. Another result of Northern Treaties were the various international efforts and circumpolar conferences “on everything from agriculture to education and health” (Penikett, 2006). Canadian officials at these conferences were surprised to receive requests from other countries eager to learn how to resolve land claims.

Other recommendations out of *Reconciliation* include:

- the hiring of creative, entrepreneurial bureaucrats as negotiators with access to their Ministers and First Ministers;
- mandates for government negotiators should grow out of the negotiations themselves;
- set aside interim measures negotiations in favor of Treaty negotiations;
- use of mediators as adjudicators to resolve disputes;
- to test dispute resolution mechanisms;
- certainty must be arrived at in favor of First Nations and not limited to paternalistic concepts of fairness;
- base self government on practicalities of institution building, economic service delivery and funding arrangements;
- establish public negotiations rather than private to continually explain the Agreements to citizens of all parties;
- provide the British Columbia Treaty Commission the same level of independence that Canadian Court judges enjoy; and

- tie Treaty-making directly to the political will of Ministers and Premiers.

Principles of Change Management

Breen and Dahle examine strategy for change in their November 1999 article titled *20/20 Change Agent* analyzing CIGNA Corporation of Philadelphia in which they liken corporate changes to parallel parking a battleship. The paper centers on 1993-1999 CIGNA Property and Casualty Senior Vice President of Corporate Reengineering Tom Valerio, and his actions to establish change within his division in order to move the monolithic subsidiary forward towards the CEO's vision.

In his summation of change at CIGNA Property and Casualty, Valerio offers 4 principles, the first of which is "Be brutally honest about where you are". Quite practically, it is the requirement for the firm to examine operations and resources with a very critical eye to determine weaknesses and areas requiring change. For Valerio the result of this self-examination, performed by stakeholders, was not positive although the process permitted the identification of areas of weakness in various forms. It caused management to move "beyond the numbers" to analyze the core issues facing the company from varying perspectives.

The second principle lends itself to the article title – "Bring 20/20 foresight to where you want to go". This principle was exemplified in the 'buy-in' of employees toward the goal which had to be simply-stated. For the size of CIGNA Property and Casualty, any complex design would overwhelm and bog down the process, so Valerio limited the goals to (1) improving the bottom line; and (2) to structure its targets based on

risk and margin analysis. In simplifying the efforts of everyone involved, the employees could visualize their part in reaching the objectives which, for employees, seemed to simultaneously become more attainable.

The third principle states, “focus relentlessly on the things that move you toward your goal”. One of the tools used toward accomplishing goals is the use of a balanced scorecard which CIGNA adopted to measure performance publicly. Developed by Dr. Robert Kaplan and Dr. David Norton, this system helps employees and those responsible for the company to alert the team, or in this case company, of a weakness or reductions in performance. Valerio reported that employees came to view the “very public” system as one which could improve their overall performance as quickly as they could address the failure. With everyone watching, the incentive was provided to correct weaknesses and to build growth for the company in a personal way.

The fourth principle calls on managers to remember “as you close in on the goal, never lose sight of the big picture”. As Valerio’s managers directed and focused efforts toward short term goals, he cautioned them to keep the big picture in mind to maintain the vision of each short term objective’s place in the overall strategy. He did this through the use of the ‘transformation map’ consisting of “a one-page document that laid out intermediate milestones and ultimate goals”. The function of the transformation map was to “[weed] out the things that might be problems . . . and for identifying opportunities that would lead [the company] to profitability”. The transformation map improved communications over each department who could see failures, but then caused them to realize that short term failures might be necessary to reach long term success.

Breen and Dahle conclude that the process of change at CIGNA was “pulled off” over a period of five years. Also that the principles used at CIGNA could be used elsewhere to at least identify processes for companies to examine in incorporating or examining the function of change. CIGNA former Vice President, Tom Valerio, left the company after the successful implementation of its change strategy to work for the Balanced Scorecard Collaborative firm in Lincoln Massachusetts.

Business consultant, Fred Nickols proposes a comprehensive and systematic process for identifying the basis of change in a corporate environment in his article titled “Change Management 101: A Primer”. He then lists types of change; a number of recommendations for managers to consider; and skills necessary to implement strategies of change.

Nickols describes four definitions of ‘change management’: (1) the task of managing change; (2) an area of professional practice; (3) a body of knowledge; and (4) a control mechanism. The first definition refers to “the making of changes in a planned and managed or systematic fashion”. This means that change management is the task to identify catalysts for change that originate within or external to the company. This labeling of sources of change causes managers to provide reactive or proactive responses to control issues to the company.

The second definition describes the business of consultants concentrating on providing services to organizations requiring systemic change. Whether the source of change is internal or external, consultants offering change management seek to treat the process of change separately from the specifics of the situation (Nickols).

The change management literature refers to models, methods and techniques, tools, skills and other forms of knowledge utilized by practitioners. Nickols says that although the tools for managing change are common, it is the application of tools that exhibits a "high degree of variance". This definition is linked to the second definition as it describes the manner in which consultants carry out their change management services.

Nickols describes the fourth definition as 'version control' or 'configuration management' where companies are required to comply with a regulatory process of handling change. He provides chemical processing plants as an example which must conform to a set of procedures and standards in the course of making changes.

The combination of these definitions leads to principles of change management, says Nickols, and though the highly varied systems across the multitude of industries may significantly differ, the systems to implement change have the same foundation. He terms this the "fundamental similarity of change processes" (Nickols).

To implement these principles to effect change in an organization, Nickols summarizes processes for problem finding and problem solving. He contends that the process of change involved in the "unfreezing, changing, and re-freezing" of company systems as posed by Kurt Lewin's theory of homeostasis or dynamic stability is that some companies are in varying modes of operation due to various economic factors they face. Further, he says, that this theory cannot apply readily to all companies since stability may be a constant source of motivation and, thus, is never achieved. Achieving stability, for some companies, could mean the loss of competitive advantage or some other loss highly detrimental to operations.

Nickols further describes the cultural attachments to the term 'problem solving' which often carries with it the dynamic where a person or division has failed and such action requires a 'punishment'. He prefers to structure problem solving as a process to identify sources of weakness as a stepping stone to providing success. He posits that problem finding should be the operable term since it turns the issue into a source of action for the company to address rather than a hunt for laying blame. Specifically, he says it should be a "practical matter . . . of identifying and settling on a course of action that will bring about some desired and predetermined change in the situation" (Nickols).

In addressing the 'problem', Nickols says the process begins with breaking it down into smaller problems and attaching each to specific objectives of correction. In examining the source of the problem the identification must include the "how, what, and why of change" (Nickols). In examining how change is to function, the results of the effort are identified, while the examination of what a problem is leads to measures for realizing effective change, and the examination of why a change is necessary assists to find the 'true' elements of changes required (Nickols). He concludes that it is through this process of identifying problems that the ultimate purposes for change are revealed.

This is similar to the Japanese system of '5 whys' where a manager in a Japanese company will seek to find the root of a problem by: asking 'why' to produce an answer to which she will ask 'why' to gain answer #2 to which she will ask 'why' to get answer #3 to which she will ask 'why' to get answer #4 to which she will ask 'why' to obtain the final and fifth answer. The manager will then examine this answer as the root of the problem and work to resolve it.

Nickols' further analysis also states that in turbulent times everyone in the organization must be concerned with everything. Also, that all, management and employees, must ask themselves and find answers to the three questions of how, what, and why in order for changes to "stand the test of time" (Nickols).

The five skills, Nickols says, that are necessary to implement change are: (1) political; (2) analytical; (3) people; (4) system; and (5) business skills. Political skills are necessary because organizations are social systems consisting of people vying for position. Analytical skills, or 'Solution Engineering', enable the manager to pull apart systems and re-build them in a cohesive, rational way which are tied to financial incentives for implementation. Analytical skills call for both financial ability and operations analysis.

People skills are required to move employees and stakeholders toward the new goals, and to resolve conflicts as change takes place. Managing people is the primary activity, and connecting with each requires ability to adapt knowingly (Nickols). Systems skills draw on most of the above in that it includes technical and socio-technical abilities. Business skills are those which define the ability to function in the corporate environment specific to the business including: markets, sales, finances, shareholders, employees, and all other facets of the business.

Nickols' recommendations flow from a mix of strategies. He describes four strategies, three of which are referenced: empirical-rational, normative-re-educative, power-coercive, and environmental-adaptive. Empirical-rational strategy ties communication of change to incentives. Normative-re-educative is based on re-defining and re-interpreting norms to developing new ones. Power-coercive is the use of power of

authority and sanctions. Environmental-adaptive, Nickols' strategy, is based on building a new organization and transferring people to the new one.

The recommendations he offers include:

- “1. Jump in and get to work;
2. Establish a concise, and clear sense of purpose;
3. Build a team;
4. Maintain a flat organizational structure;
5. Pick people with relevant skills and high energy levels;
6. Toss out the rule book;
7. Shift to an action-feedback model, and plan and act in short intervals;
8. Set flexible priorities;
9. Treat everything as a temporary measure;
10. Ask for volunteers;
11. Find a good team leader and stay out of her way;
12. Give the team members whatever they ask for except authority;
13. Keep communications barriers low, and let anyone talk to anyone about anything; and
14. Remember that change management is bringing order to something unorganized and undisciplined.” (Nickols)

John Kotter's article *Leading Change: Why Transformational Efforts Fail* is recognized as a leading examination of principles for corporate change. The article starts from the basis that change management, in its various guises and names, seeks to assist a business to cope in a “new, more challenging market environment” (Kotter). From his analysis, successful change results from a series of development phases occurring over a long period of time. The article points to eight steps to transforming the organization.

Kotter's step 1 directs change leaders within the company to establish a sense of urgency. This can take various forms including identifying and discussing crises or potential crises, and major opportunities. Kotter says that “most successful change efforts begin when some individuals or some groups start to look hard at a company's situation” (Kotter). Employees and managers must be driven out of their comfort zones and it must make the status quo “seem more dangerous than launching into the

unknown””(Kotter). For successful transformation, he says that the urgency level is high enough when 75% of management is honestly convinced that change is required.

Step 2 is to form a powerful guiding coalition of individuals within the company's higher organizational levels to champion the change process. He notes that the process will take months and years to complete and the coalition must be steadfast in its commitment to transformation. Further, the coalition must include members representing a majority of stakeholders including union leaders, large volume-purchasing customers, and will operate outside the normal hierarchy. It is also necessary, he says, to maintain a powerful group which will grow over time as opposing perspectives are addressed and eventually eliminated.

Step 3 calls for the change leaders to create a vision and to establish strategies to achieve it. Kotter notes that the vision develops over time as a clearer focus emerges about the changes required of the company although some parts of the vision are concise from the beginning, as issues affecting the vision are addressed, and as circumstances require, the vision solidifies. Just as the vision changes so too do the strategies to work toward the vision. “Without a sensible vision, a transformation effort can easily dissolve into a list of confusing and incompatible projects” says Kotter. Also, the vision should be fairly short and change leaders should be “able to communicate [it] in five minutes or less” (Kotter).

Kotter's fourth step directs change leaders to use every possible means to communicate the vision and to exemplify the strategies used to achieve it. A sustained and relentless effort must be employed, he says, to engage all stakeholders and elicit information critical to implementing the strategies leading to change. It is required that

change leaders capture the “hearts and minds of the troops” (Kotter) through all communications and also to ‘walk the talk’ and demonstrate changes by example.

The fifth step is to empower others in the organization to act on the vision by removing all obstacles, changing systems that are incompatible with the vision; and encouraging risk-taking and non-traditional ideas, activities, and actions (Kotter). He says that when people are obstacles, they should be treated fairly “consistent with the new vision” (Kotter), and to demonstrate to others that the change effort is the paramount objective.

Kotter’s sixth step is to create short term wins as improvements, and to reward those “involved in the improvements” (Kotter). He explains that the sincere effort will take time for complete change and in order to maintain production to the vision, short term gains must be planned for and celebrated. Also, that short term wins can serve as mini-processes to evaluate the path leading to the new vision and force analytical thinking that can clarify visions. Further that even though pressure to achieve short term wins may meet with some resistance, it is a requirement of the overall process. Short term wins keep urgency levels up as the long term effort is seemingly lengthy.

The seventh step in Kotter’s system for change is maintaining a sustained effort to produce more change within the organization in order to achieve the vision. He describes the later portions of the effort as one filled with several short term improvements which, he says, should be consolidated and, as required, whole systems replaced. Building upon what is achieved lends further credibility of the new system to function. Whole systems include personnel who serve as change agents (Kotter). He cautions that the sum of these

results can lead to premature victory celebration which can permit “tradition to creep back in” (Kotter).

Kotter's eighth and final step for transformation directs change leaders to institutionalize the new approaches. One means is to communicate and re-communicate how changed systems are out-performing those that were replaced. Top incoming personnel must behave according to the new systems as well and therefore, boards must ensure that this occurs. With each of the steps mentioned, Kotter explains that transformation is all-encompassing and as the last of the traditions are replaced, the effort to keep to the new order must be sustained. He also cautions that his eight steps are simplistic as compared to the myriad issues of “messy change” carried out by organizations.

Similar to the process outlined by Kotter, Beer, Eisenstat and Spector, in their article “Why Change Programs Don't Produce Change”, offer a six-step process for achieving corporate change. Their findings are based on a review of change programs employed over a four-year period by six large corporations. The study revealed successful transformation efforts which had begun at the periphery of management rather than a top-down approach. The authors concluded that “the chief problem for corporate change is how to promote task-aligned change across many diverse units” (Beer et al).

What also emerged was that three critical and interrelated factors had to function: coordination, competencies, and commitment. Coordination requires teams, made up of personnel from various departments, which converge to establish a new order in how they function with one another. Commitment requires all stakeholders in the process, to recognize that high levels of coordinated action are required. Competencies are

important since the transformation effort requires business, analytical and interpersonal skills to effect change. The authors explain that “if any of these elements are missing, the change process will break down” (Beer et al).

The first step is “to mobilize change through joint diagnosis of business problems”. The successful companies began their transformation effort with the implementation of a task force formed to analyze the root-problems from all perspectives in addressing, designing, building and delivering products. Initiated by management, the task force consisted of engineers, production workers, and union officials. Step 2 built on the success of step 1 and management initiated a still-larger team, from different levels and functions, to solve problems their ‘people’ had realized. At this point in the change effort, the grass-roots have taken ownership of problems and worked together to realize solutions that their collective experience tells them will work.

Step 3 connected the realization of problems and solutions to competencies required for achieving and maintaining the new vision. It became apparent that certain skills would be required so management identified training programs to increase skill levels. Since training requirements were identified by the employees themselves, the programs “were more focused and useful than traditional training programs” (Beer et al). Some employees however would not change and were replaced. The authors note that by changing employees the efforts of transformation are demonstrated as the new way.

Step 4 directs the infiltration of changed efforts throughout the organization as each is called upon to assess their new roles and responsibilities. In the example discussed, in order to find how to implement the new way, the engineering department conducted two surveys, held off-site meetings, and proposed, rejected then accepted a

new management structure. Again, it is noted that the departments have to find their own way to the new organization (Beer et al).

Once the previous steps are achieved, managers exercise step 5 which is to replace formal structures. A new system is in place, and employees and stakeholders are performing according to the new order, and the next step is to recognize the new order by formalizing the system which supports it (Beer et al). This then calls for step 6 which is to monitor and respond to problems with the new process. The new system becomes a “mutually reinforcing cycle of improvements in commitment, coordination and competence” (Beer et al). The ad-hoc team structure, then, is permitted to carry on the business.

The authors conclude with some direction for top management to orchestrate change for the entire organization. First management must create a market for change, replicate efforts of revitalized divisions throughout other divisions, and “develop career paths that encourage leadership development” (Beer et al). At the end of their examination, Beer, Eisenstat and Spector did not witness the final stage of transformation namely the bringing together of corporate organization with corporate strategy. However, they point out that in order for the new way to continue, the CEO and management team must adopt the behaviour responsible for the transformation of their company.

Ostroff's article titled “Change Management in Government” compares companies to government. He outlines four “unique obstacles” (Ostroff) to change in government agencies. He also describes five principles for successful change in the public sector.

Ostroff says that government appointees are chosen, not for their experience in managing change, but for their ability to master policy, technical skills or political connections. Ostroff's second obstacle to change is the length of time appointees serve an administration. Given that most terms of office are 18 to 24 months, Ostroff says that this is not enough time for effective change to anchor itself within an agency. The Canadian experience may be somewhat different however.

Rules for public organizations can limit effective change within government as well, and this is Ostroff's third obstacle. If public agents are constrained by restrictive policy, then the ability to transform the organization is constricted as well. The fourth obstacle is that public functions are public and operated "in a fishbowl" (Ostroff). He says that this can be a limiting factor since most public work often meets with at least one person's disapproval.

The article then centres on the transformation efforts of three public agencies in the US which successfully implemented change and how they exemplify the principles Ostroff espouses. Ostroff's first of the five principles is to improve performance against agency mission. In the Occupational Safety and Health Administration employees seemingly forgot the mission, and the transformation effort began in 1993 when a new Secretary of Labour, Joseph Dear, was appointed and refocused efforts to hold the organization to its mission. Incidentally, the OSHA mission was "to reduce the number of injuries, illnesses, and deaths in the workplace" (Ostroff); and Dear added the goal of "reducing all workplace ills within 10 years" (Ostroff). Ostroff describes similar action instituted at the US Special Operations agency which revitalized efforts by improving performance against mission.

The second principle is to win over, as many as possible, stakeholders to the government agency. As communicated by a Special Operations official, “it is so important to get ahead of the curve – to know the [stakeholder] issues and then meet them ahead of time” (Ostroff). One action taken by Special Operations was to invite a number of US Diplomats as a catalyst for change and prior to landing the flight all were aboard, the SOF agents put on parachutes and leapt off of the plane. Ostroff explains that the transformation effort calls for “grabbing their attention” (Ostroff) in order to engage each player. For internal stakeholders, longevity of personnel is a factor and Ostroff explains that this can assist the change effort. He says that at government agencies initially one-quarter of staff are for the change, one quarter are against the change and the remaining half are on the fence and do not decide immediately. In order to gauge the level of acceptance, he suggests using questionnaires, surveys, interviews and observation to determine who is amenable to change. It is important he says to engage both external and internal stakeholders in the transformation effort.

The third principle is to “create a road map” to identify performance objectives; set priorities; and roll out the program (Ostroff). The identification of performance objectives should be done by a cross-section of individuals within the organization to ensure that each perspective is achieved. Setting priorities, Ostroff says, defines and demonstrates the roles that each is to play in effecting change. In rolling out the change program a steering committee “usually composed of the agency’s leader and senior managers . . . approves the sequence of steps, imposes milestones, specifies deliverables, approves change-team recommendations, and defines the expected contributions from both work units and individuals” (Ostroff).

Ostroff's fourth principle is to take a comprehensive approach to implementing change. The transformation effort requires the full range of factors to perform including: "leadership, structure, processes, infrastructure, people and performance management" (Ostroff). In addition to performance the organizational boundaries must not restrict revitalized efforts. The fifth principle calls on agency leaders to be "leader[s] not . . . bureaucrat[s]" (Ostroff). He says this is done by being committed, investing personal time and energy, and committing necessary people and resources which all combined is leadership (Ostroff).

Kaplan and Norton, in their article "How to Implement a New Strategy Without Disrupting Your Organization", argue that an "effective approach is to choose an organizational structure . . . then design a customized strategic system to align that structure with the strategy" (Kaplan and Norton). They examine how DuPont Engineering Polymers and the Royal Canadian Mounted Police redefined their structures to "guide decentralized units in their search for local gain even as they identified ways for them to contribute to corporate-wide objectives" (Kaplan and Norton) using strategy maps, strategic themes, and the balanced scorecard technique for strategy analysis.

The balanced scorecard technique, developed by Kaplan and Norton, involves the cross-matrices of 4 perspectives: financial, internal business processes, customers, and learning and growth. Each perspective is measured according to objectives, measures, targets and initiatives; and then each is assessed for efficacy against the vision and strategy of the company. The technique is meant to highlight areas of strength, especially value of internal resources, and weakness in order to deliver the vision more effectively.

Often the process is run a second time as issues are identified, addressed and re-measured.

Kaplan and Norton note that the scorecard technique does not summarize issues and then address them collectively, but rather takes the issues identified and tie them to the enterprise vision of the firm as a whole. In Implementation of this technique, strategic themes are identified, top executives tie themes to the company's corporate advantage, senior executives are charged with the responsibility for a theme, and resources are identified and provided. A continuing monitoring effort is maintained to ensure that themes continue to support the corporate strategy and changes are made accordingly. The article highlights the use of the scorecard technique to invigorate DuPont's success to encourage revenue growth and cost reduction. The use of the balanced scorecard technique also permitted the Royal Canadian Mounted Police to re-establish its efforts from across a diverse population and vast geographic landscape.

In "As nature intended: the ecology of complex change" by Ratcliffe, change is described as a fact of nature that must be understood, marshaled and lead into an organization. Ratcliffe describes the S-curve approach to understanding organizations and periods of invention, growth, consolidation and completion which are the four parts of the S-curve. While a firm's operations may rise and fall, says Ratcliffe, it is necessary to plan for changes from one part to the next to obtain success (Ratcliffe, 2007).

Ratcliffe's analysis also comments on how people process change which, she says, helps to determine where the firm is located on the S-curve. She describes three types of motivational drives found in most people and they are attachment, exploration and complex maturity. Those driven by attachment seek to attach themselves to their

task and/or work team and process change as the new attachment takes place of the old. Exploration refers to the motivation for people who are task oriented by working with untested ideas or through a constant measuring of progress. Complex maturity refers to the ability to handle complex or unpredictable circumstances.

Christensen, Marx, and Stevenson, in their article titled "The Tools of Cooperation and Change", explain their choice of tools for managers contemplating or facing change within their organizations. Ranging from consensus building to agreement on what requires change, the authors compare realities in the Balkans to firms like Microsoft and Apple Computers. The tools offered include: power, management, culture, leadership, and disaggregation which the authors portray in a matrix listing no consensus to broad consensus on each axis: one representing what employees want versus cause and effect agreement.

Power tools provide managers the means to force action either through coercion or as direct orders. Management tools are those which managers focus on coordination and processes (Christensen et al, 2006). Leadership tools are results driven and are capable of providing change if employees are convinced that the likelihood of the new effort will succeed. Culture tools include tradition, folklore, rituals, and vision and apprenticeship permit gradual change as people internalize the operations of the company and the feeling of 'the way we do things' is strong. Tools of disaggregation pull apart divisions when one production line fails to deliver profitability within the division. The article concludes that success and crises shifts the organization toward change, and while managers can be given these tools, it is up to them to know when each is to be used.

Prusak and Davenport in the article “Who Are the Gurus’ Gurus?” suggest that business expertise results from a variety of intellectual backgrounds. When asked for the source of expert influence in the field of business academia, 200 business leaders identified more than 60 names. Of the 60 names offered, 1 name featured a maximum of eight mentions and that is management theorist Peter Drucker, and Stanford-based social scientist James March featured second with 6 mentions. Of the remaining list of mentions, more sociologists than economists were offered. The authors were “struck by how intellectually fragmented the list is” (Prusak and Davenport, 2003).

In “New Views on Leadership Coaching”, Wakefield recommends that brief solution-focused coaching leads to effective change. Through the use of miracle, scaling, exception, coping, relationship, and what-else questions, managers can coach employees through change by drawing on their expertise that is not normally readily-apparent. The miracle question draws out behaviour based goals. The scaling question establishes a measurement over time. The exception question identifies the skills that the individual can use more of. The coping question asks what the individual is doing to handle challenging situations. The relationship question focuses attention on a third party perspective by highlighting the view of the issue from a distance. The what-else question “elicits additional information” (Wakefield, 2006) to help guide the process.

Wakefield instructs leaders to also keep mindful of the manner in which these questions are used, and they should not use them the same way countless times. Also, leaders should refrain from dwelling or mentioning the past and instead concentrate on what is to be done to change the situation presently and in the future to refrain from turning the process into a therapy session or “problem talk” (Wakefield, 2006). He adds

that being attentive, 'keeping it real', positive, and simple but not simplistic should be part of the leader's mindset as well. Above all, leaders should target quick change as it spurs larger changes, builds momentum for change, and motivates change of lasting impact. He concludes that this type of incremental change can lead to personal success for the individual, help break old patterns, draw on internal strength, and build greater success for the organization.

D'Aprix and Gay in "Change for the Better" say that in change management "There is no finish line, only occasional resting places where you can catch your breath and wait for the next round of change your organization will inevitably face" (D'Aprix and Gay, 2006). The theme of the article is that "Leadership communication begins with the needs of the workforce" (D'Aprix and Gay, 2006). They offer suggestions on what leaders should expect to handle when converting staff to change, and strategies for ensuring that the transition occurs. They note that first reactions are normally negative, and that managers should expect to communicate and re-communicate the basis for change; and that the 'Emperor's New Clothes' phenomenon is still very much alive in the 21st Century.

D'Aprix and Gay offer five principles of change: (1) commitment of employees and management; (2) reactive communication strategy; (3) reasons why change is necessary; (4) the responsibility for communicating changes belongs to the organization's leaders; and (5) the communications system requires accountability, measurement and consequences. Taken together, the authors conclude that the task of communicating change is "a deliberate, never-ending process" (D'Aprix and Gay, 2006).

Fuller argues that change is inevitable, and the problem is not change itself but how change is managed (Fuller, 2006). He offers principles similar to those of D'Aprix and Gay: (1) consult widely; (2) agree on a precise specification; (3) plan the project and decide how to undertake the change; (4) have a realistic timescale; (5) identify and plan for resistance and forces for change; (6) check, measure, review progress, adjust plans and keep the team informed; (7) be prepared to listen; and (8) have a contingency plan.

Moore suggests that organizational change takes place in two ways: it is initiated by the organizations' leaders then sustained by its managers (Moore, 2007). He also quotes Bennis' description and comparison of leaders and managers in saying that it is usually a combination of both behaviors that lead to success depending on the context of the situation. He recounts his experience with implementing the two aspects of leadership: "we had to have some basic systems in place and operating well[, and] [a]fter we managed to establish these systems, it allowed more time to exercise what Bennis characterizes as leadership" (Moore, 2007).

In any organizational change the incoming or new roles are often challenged, sometimes overtly and covertly, by those who feel threatened by a new system or those who are not convinced that changes, as portrayed, are necessary. Buchanan and Badham conducted a small study of four organizations while focusing on the political tactics used to handle change. Their article, *Politics and Organizational Change: The Lived Experience*, summarizes literature examining how change occurs and how change agents should conduct the transition systems. They conclude that political tactics used to subvert the change effort toward a pre-determined outcome are "nice and nasty" (Buchanan and Badham, 1999) and also that the context of the change effort determines

whether the outcome is positive or not. If results are positive for the organization, then the use of politics is beneficial to the extent that value to the organization has improved. In the end, they say, the principles of change management must include an analysis of and plan to address the political element beyond a categorization of dissent.

The importance of government in an economy is all-important: from the drafting and implementation of laws to the enforcement of regulations and policies to protect the public and public systems. McAdams comments on the scramble of US government agencies to stay out of trouble with the Office of Management and Budget (McAdams, 2007). With the directive to all government agencies to acquire and implement a new security firewall program for computer systems, McAdams summarizes that success will be determined not just by procurement and pressing 'start', but also by maximizing the use of the new program within each agency department.

Murali reports on the government plan to establish e-governance in India meant to provide services to Indian citizens (G2C), to Indian businesses (G2B), and to other government agencies (G2G) (Murali, 2007). He says that a change management process is required "that builds awareness, understanding, trust, common purpose and a genuine willingness to change if it is to move from an idea to reality[; and i]t presents enormous challenges - challenges that are not technical but cultural" (Murali, 2007).

In order to achieve success, he recommends the breaking of large projects into modules that can be measured to provide quantifiable benefits, a pilot project, and be popularized through marketing efforts. His most important recommendation follows the saying 'go big or go home' wherein Murali suggests the provision of portals or on-line introductions through existing services to 'traditional' customers in each government

department from the beginning (Murali, 2007). In this way each stakeholder is exposed to the new system and assists with internalizing processes of implementation.

Dorobeck comments on the merger and acquisition by 1105 Media of PostNewsweek Tech Media and Government Computer News which formerly represented chief rivals. He states that change is difficult and although the difficulties may create a heavy atmosphere, it is the opportunities which provide exhilaration to the outcome (Dorobeck, 2007). As a company that services government agencies, the need for information has become more technology-focused and the new strategy of "powering the business of government" (Dorobeck, 2007) is meant to assist government agencies to focus on their missions. This goal-oriented summation of the new effort suggests that while change may be distasteful in implementation, the results can be rewarding.

Buelens and Van den Broeck report on results of studies which analyze motivation of Public and Private sector managers. They conclude that the source of motivation for public sector managers is primarily quality of life rather than a focus on higher pay; public sector managers at a lower level exhibit motivational factors similar to managers in the private sector; the new public management movement requires total commitment, entrepreneurship, and empowerment; and the new public management movement may not appeal to public sector managers that are not willing to give total commitment over work-family balance.

The 2004 *Nisga'a Nation Annual Report* titled "Collected Wisdom" summarizes the thoughts and observations of Nisga'a Elders on the implementation of the 2000 Nisga'a Treaty. Elder and Hereditary Chieftain Charles Alexander says "In the lead-up to the Treaty, I went to every meeting. I never missed one. Has it been worth it? I'd say

yes. But everyone is brand new to this. It will take a few years before they work it out. In the future, the promise of the Treaty will be fulfilled” (Nisga’a Nation et al, 2004).

Methodology

To determine the relative importance of issues surrounding proposed Treaty implementation plans, a sample of First Nations organizations was selected based on their position in the six-stage British Columbia Treaty Commission process. All are in stage 5, the Final Agreement stage. These organizations are also aware of and in communication with recent Treaty First Nations such as the Nisga’a, Yukon, Inuit, and Cree.

Research Plan

The current Chief or Lead negotiators or the Senior Administrator of each of the organizations were chosen for interviews. Topics of discussion in the interviews covered a broad range of issues surrounding the nature and atmosphere of treaty talks, the current agenda items for conclusion of related issues, and the progress or lack thereof of the negotiations. (See Appendix 1 for interview questions). The information gained from the interviews will be combined with the research material in an effort to provide these organizations, as well as those in earlier stages of the treaty negotiation system, with tools and strategies for implementing their agreements. By identifying issues facing First Nations collectively such as Education services or Housing services, as well as Treaty-level issues such as forestry or fisheries rights and management of lands, the survey is intended to draw out thoughts and ideas surrounding the construction and delivery of Implementation Plans.

Results

These results are based on a small sample of First Nations organizations although they represent the top tier of current Treaty negotiations in British Columbia. The organizations vary in size, location, Treaty benefits, and length of negotiations. Each respondent noted that significant change is expected, while Maa-nulth expects significant change some of their existing systems will be utilized under Treaty as well.

Maa-nulth

Maa-nulth First Nations are comprised of five of the twelve Nuu-chah-nulth Nations located on the west coast of Vancouver Island. The requests from Maa-nulth for a Treaty date back decades, and they were members to the formation of the Nuu-chah-nulth Tribal Council in 1951. The five First Nations are Uchucklesaht, Toquaht, Huu-ay-aht, Ka:'yu:'k't'h', and Ucluelet composed of approximately 2000 people living near Bamfield, Port Alberni, Ucluelet, Campbell River, and Kyuquot Sound.

In 2001, the twelve-member Nation Nuu-chah-nulth held a vote to approve an Agreement in Principle with Canada and British Columbia, however the vote failed when six Nations, who represented the majority membership, voted against ratification. On December 9, 2006 the Maa-nulth First Nations initialed an Agreement with Canada and British Columbia worth \$500 million and covering approximately 24,550 hectares of land. Currently, they are preparing to vote on the Constitutions in June 2007 while the Treaty ratification vote is scheduled for October 2007.

The fact that the Maa-nulth First Nations have been involved in negotiations for several years provides considerable experience with the form and structure of Treaties.

The underlying theme running through the current Treaty effort is to consult widely and address all issues their membership may have with the proposed agreement, its various clauses, and new systems of government. The Implementation Plan, currently in draft, runs to 400 pages and is more detailed than the 280-page Treaty which it follows. The Maa-nulth will also establish five constitutions which is one for each of the signatories, and each has been designed to address the needs of the communities and so they are different.

The survey also revealed that the Maa-nulth borrowed heavily from the Nisga'a Treaty. They also consulted the Nisga'a for clarification of proposed governance systems also. It is proposed that the Implementation Plan will be easily amendable, intended to be user-friendly, less legal in terms of wording and concepts, and inter-relates Treaty chapters. It is noted that, since the Treaty includes several long-standing Agreements for various services such as Child Services and Education, the task of combining efforts has been made easier.

There are also five suites of founding legislation which will form the foundation of each new government similar to the eleven founding Nisga'a Laws. The new legislation will not form part of the ratification vote, since it is to be enacted on the effective date of the Treaty which is subsequent to the ratification approvals from British Columbia and then Canada.

In terms of anticipated change, each Maa-nulth First Nation is at a different stage of development, some are more structured than others, and much of the systems are in development. The first Fiscal Financing Agreement, which will pay for services under the Treaty, is still being negotiated as well. Each of the five First Nations will operate

under one Implementation Plan although each will have their own committees to oversee the processes as well.

The issues surrounding the Maa-nulth talks have been significant and are very similar to those encountered by other negotiating First Nations as well as the modern Treaty Nations: Nisga'a, Cree, Yukon, and Inuit. There were no prototypes, there were funding proposals that were not flexible, and the guidelines used to move the process were not defined. Qualitative issues were identified as well and the federal Minister of Indian Affairs and Northern Development was required throughout to direct the negotiations. These issues have mostly been overcome, and the Maa-nulth continually asked themselves three questions: Did we cope with the tidal wave [of Treaty material]? Did the Treaty do the right thing? Would we do the same thing again? In commenting on future Treaty talks, the Maa-nulth state simply that some issues will require collective address by all Treaty groups.

Lheidli T'enneh

The Lheidli T'enneh First Nation is located on the Fraser and Nechako Rivers near Prince George composed of a population of 320 70% of whom live off of Lheidli T'enneh lands. Their Agreement was initialed in October 2006 and a vote was held March 27 – 30, 2007 to approve the Final Agreement worth approximately \$75 million and including 4,330 hectares of land. With 86% voter turn-out, the ratification vote failed. The Lheidli T'enneh has laid off ten Treaty staff and, presently, no timeline for re-grouping of efforts to re-establish Treaty talks. Several reasons were given for ratification failure including the lack of understanding of Treaty system.

Although the Treaty ratification did not succeed, the information provided via the survey highlighted plans associated with the expected Agreement. The Treaty planned for expanded roles in local and regional governments, expanded programs and services, compensation or Capital transfer funds, revenue sharing initiatives, and expanded land base. Limits on new and expanded services due to population size and justification for expanded roles were determined by proximity to City of Prince George also. Rather than institute a financial plan for pending operations, the negotiations simply used the audited financial statements over the past five years as justification for the new fiscal financing agreement.

The Constitution of Lheidli T'enneh was to provide legal basis for new governance structures and administration. The current Band Council was to change from a Chief Councillor and two elected members to a Council consisting of a Chief Councillor and five Councillors elected by the citizens to form Lheidli T'enneh Government. In order to transition to Treaty, the existing Chief and Council was to continue, for a maximum period of six months, until an election for Lheidli T'enneh Government.

After Treaty, operations were expected to expand beyond current levels. Currently, there are two arms of Administration, the Band operations which oversee the Administration of programs instituted by the Indian Act, and Treaty operations which conduct the work associated with negotiating the Treaty. After Treaty, Band operations would cease, and Lheidli T'enneh Government operations would commence.

Via the new Constitution which was seen as the blueprint to Treaty Administration structure, the governance body was to change after Treaty from three to

six elected Chief and Council members; with expanded operations to occur on two levels: (1) local government similar to existing Band operations and (2) national government similar to Treaty operations to represent Lheidli T'enneh interests within federal and provincial governments. Under Treaty, the new employee service was to consist of eighteen local government staff and at least ten Nation staff. Apparent disconnect in Treaty process between Band and Treaty operations. Process often led by expert and consultative arm rather than by elected leadership.

Although the Treaty Implementation plan will not proceed, it was planned to address human resources issues and training initiatives for staff and elected council members through the use of university and college programs. As a ten-year plan, the strategy was to begin the training efforts after Treaty. Other plans for infrastructure development were to be initiated upon successful Treaty ratification. Indian and Northern Affairs Canada staff was not willing to move forward on the processes for community development and were waiting on ratification also. Since 2000, Lheidli T'enneh staff were told to wait until after Treaty to begin plans to address further capital development.

Tsawwassen

The Tsawwassen First Nation is located at Roberts Bank near Delta on the shores of Georgia Strait composed of a population of 328. The Tsawwassen Agreement was initialed December 8, 2006 worth approximately \$16.4 million and including 717 hectares of land. A ratification vote is scheduled for Spring 2007.

Tsawwassen anticipates some change which it has been working toward over the past several years. According to the respondent, its strength lies in its people, on the Treaty side as opposed to the Village operations, who are receptive to change with impressive skills and abilities. Current Village employees are not prepared for changes and a plan is required to bring their skill and awareness levels to meet Treaty obligations. A recent organizational review clarified roles and responsibilities and provided direction with anticipated work of the Treaty.

Similar to Maa-nulth, some areas for implementation are built on long-standing agreements for various services. The willingness to and experience in coordinating efforts with third parties has provided management and employees with paths to successful implementation of new structures. For example the policing agreement is quad-partite, and there is only one other like it in Canada in New Brunswick. The four parties are Tsawwassen, British Columbia, Canada, and the District of Delta.

The respondent noted that a number of services will be easier to implement due to Tsawwassen's proximity to agencies in the Lower Mainland of British Columbia. As with the other groups, the governance structure will change under Treaty although specific details are in development. The employee service, currently numbered at fifty, will decline as a result of Treaty with current Treaty staff being brought into new key positions. Social and Health services will mostly continue with some expansion afforded by Treaty. Education and Training services will expand also and the role of the Port at Roberts Bank will continue to employ Tsawwassen people and presently there are more positions than people.

Housing services are expected to expand also with a new residential subdivision planned for the Village population of 170. Infrastructure services are mostly complete and some have been provided through a comprehensive Master Agreement with INAC and the District of Delta for several years. Funding services and a Fiscal Financing Agreement is in development also.

Each service is being examined for their implications to existing Treaty and Village funding levels after the effective date of the Treaty. With the expansion of services, funding levels are expected to grow as well. All existing operations are expected to grow with the exception of Economic Development which is not part of the Implementation Plan. Currently an economic development department is in place while a Board of Directors and professional management are seen as required elements.

In-SHUCK-Ch

The In-SHUCK-Ch First Nations is comprised of the Douglas, Skatin, and Samahquam First Nations composed of a population of 908 located in the Lower Lillooet River Valley near Pemberton and Mount Currie in the north part of the traditional territory and Agassiz and Harrison Hot Springs in the south. In-SHUCK-Ch was the first organization to enter into Treaty talks under the BC Treaty Commission in December 1993, and although it began with 4 member-Nations, it has continued with the 3 Nations since 2003. In-SHUCK-Ch signed an Agreement in Principle October 28, 2006 worth approximately \$21 million and including 14,577 hectares of land.

Significant changes are expected at In-SUCK-Ch similar to other top tier pending Treaty groups. They are pressing Canada to begin negotiations of the Implementation Agreement sooner rather than later, to “frame it then hammer it out” says the respondent. Governance structure is planned to change from 3 Indian Bands and Tribal Council to 3 District Councils and 1 Central Government which is a slight change although the level of responsibility changes markedly. The employee service, and most programs and services will change as well, however there is a conscious effort to gain efficiencies by centralizing and consolidating departments.

The Fiscal Financing Agreement will attempt to mirror, and be “completely intertwined” with the Implementation Plan. Currently, there is a reluctance of Canada to move forward pending results of ratification votes at Lheidli T’enneh, Maa-nulth and Tsawwassen. The use and development of Community Plans will form the basis of the Fiscal Financing Agreement. The respondent noted that Canada’s position seems to be utilizing the Treaty process to limit their obligations rather than focus on establishing systems of sustained growth. The change for management will go from managing a process to managing something real.

One area of particular interest to In-SHUCK-Ch is wealth creation and ideas on how to build a sustainable economy. As Canada takes exception to building economic development into the Treaty, for In-SHUCK-Ch, a plan for economic development could be the difference between success and failure. Other initiatives are the operations of a Forest License, independent power production, and permits and licenses for recreation on In-SHUCK-Ch territory. “Given the proximity, [the] sustainable economy will be based on the services industry”. It’s further expected that the independent power production

will “get things started” since the communities are not connected to the British Columbia Hydro grid although transmission lines are within a few meters of the communities.

In-SHUCK-Ch expects to be on par with other Implementation Plans, and they expect a detailed plan so that there is “nothing unanswered or cloudy”. The Plan is also expected to be more technical and more representative of the pending District Councils. Dispute Resolution processes are “factoring large” and In-SHUCK-Ch means to compel action on the part of governments to steer clear of court challenges. They are also mindful of and will build in to the Implementation Plan the reasons why the Treaty was reached in the first place. The function of the Plan is expected to be “relatively independent” from operations of In-SHUCK-Ch Districts and Central Governments.

Existing In-SHUCK-Ch employees are aware of pending changes and transition structures are being implemented as soon as possible “as [they] negotiate”. The people realize that the existing structure “has to evolve” and the current elected officials are “tuned in [to this] as well”. For elected officials, In-SHUCK-Ch has created a governance planning group to develop new models of governance “factoring in Hereditary leadership, elders and youth”. This group has an ambitious timeframe and expects to finish “even before end of April 2007”. The effort began in 1985 and has developed “over the years”.

Comparative Study of Survey Results

Each of the First Nations surveyed were experiencing similar difficulties with government policy. The policy and manner in which it was directed in negotiations seemed in-flexible. This was noted by each respondent. There also was a strategy to

connect pending Treaty implementation to funding agreements by each First Nation although this was not part of government policy.

Each First Nation prepared to implement a number of plans not addressed by policy which seemed to indicate the gap between the Treaties and the spirit of the Treaties. The spirit of the Treaties is to improve the lives of First Nations people, and the Implementation policy could not connect beyond wording of Agreements. To achieve this, Agreements would have to be worded differently.

Each respondent noted the need of their personnel to undergo training in order to implement Treaties. Plans were to be included to increase this capacity. Similarly, an effort was shown by the First Nations to undertake training of elected representatives as well. Training was tied directly to implementation. Similarly noted, an effort to establish efficient systems of implementation was indicated in responses to capture cost savings with program and service implementation.

Part of the effectiveness effort was built on discussions each First Nation had with recent Treaty groups like the Nisga'a, Yukon, Cree and Inuit. It was very apparent that a network of communication exists between First Nations. The respondents indicated that their plans would attempt to overcome the difficulties encountered by the other Treaty Nations. One way to achieve this change, noted by In-SHUCK-Ch, is to compel the government to act by creating a legal basis for the Implementation plans and fiscal financing agreements.

Each respondent was very interested to learn about change management practices used by business. The degree of change expected was significant to each, and each First Nation expressed that most systems were in development. What also emerged was that

there was an understanding that the people asked to approve Treaties would have to be involved in every part. Another feature was that when Chiefs led the change effort by communicating the incoming processes and systems, people seemed to understand how their interaction with new systems would occur.

Treaty Negotiation Challenges

Challenges to completing Treaty negotiations in British Columbia originate from a variety of sources from those described by Penikett and Molloy to issues facing each negotiating table and the issues thereon. The flexibility of policy to deal with issues specific to each First Nation requires change from the manner in which negotiations were completed with the Cree, Yukon, Inuit and Nisga'a although, as indicated by survey respondents, those recent agreements have provided the basis for discussion of issues generally applicable to all Treaties. The most recent ratification votes, Nuuchahnulth and Lheidli T'enneh however present new challenges for all negotiators to address.

Other issues facing government positions include the pressure from third party interests in provisions of agreements. Issue such as fisheries or forestry often displace existing arrangements whether they are with First Nations or not. Treaties are required to reconcile First Nations rights and obligations to satisfy commitments replaced by new systems. These arrangements are addressed by side agreements to Treaties to close previous commitments and to establish the new relationship. Relationships with neighboring municipalities, provincial ministries and federal departments also pose challenges when in-service presentations are not performed.

Other issues facing First Nations include the element of dissent from within and the overlapping claims of neighboring tribes. Since the Nuu-chah-nulth ratification vote was not successful, the Maa-nulth have sought to address internal issues by the constant effort, since Treaty talks began, to keep their citizens and close neighbors aware of their pending deal. Without a communications plan such as this, acceptance of the deal may prove to be lessened. Overlap issues between First Nations continue to surface and present a challenge to proposed agreements. The Nisga'a sought to create agreements with their neighbors to address outstanding issues through negotiations. Although the issue has not been completely addressed, the impact of overlap towards proposed deals has been lowered as well. Again, a side agreement of some type is required to solidify the new relationship.

Treaty Implementation Practices

The Treaty Implementation policy of Canada directs the implementation of agreements and confirms obligations. As side agreements with no legal basis, Implementation plans cannot compel sides to take action. The plans are not linked to Fiscal Financing Agreements, and funding issues continue to arise as responsibilities go unfulfilled. Amendments to plans are not workable options and the Inuit have launched a court action seeking to redefine the side agreement. In-SHUCK-Ch and Maa-nulth intend to test their Implementation plans and also intertwine their funding agreements.

The major issues have been addressed with ratified Treaties however, and as witnessed by the Nisga'a, court challenges to their Treaty have been unable to proceed as court decisions continue to uphold the provisions of the Treaty. Similarly, when the Cree

took issue with the implementation of their deal, the court decision awarded specific benefits to the Cree. In 2004 the Auditor General of Canada, Sheila Fraser, reported that implementation of Agreements still requires improvement and also that the spirit of the deals have not been upheld.

Importance of Change Management

In implementing Treaties, the importance of change management is paramount in order for the First Nation to fulfill the responsibilities of the agreements and for the government to internalize the new relationship. The models suggested by various business theorists may provide the basis for explaining and implementing changes from Indian Band to Self government. Most of the referenced material recommends a wholesale commitment over an extended period of time by leaders and employees for significant, all-encompassing change which Treaties represent.

One of the more important elements to achieving change is the as of communicating efforts, successes, failures, and the reasons for change on a continuous basis. Leaders are required to exemplify changes and provide a 'culture of change' that is open, resourceful, rewarded, and understood. Listening permits leaders to gauge and coach the development of change efforts beyond plans, memoranda, letters, and meetings. Moving from a system that is 'problem solving' to problem finding replaces the negative connotations associated with problems and failure. Perception of success produces the mind-set of success when each individual in the organization adopts a positive attitude set on achieving successful change. This fits with First Nations culture, which is largely pragmatic, in the sense that those charged with responsibility to

implement strategies on behalf of the Nation provides gratification that they are change leaders also.

Leaders and managers should also monitor and ensure proper coordination, competencies, and commitment. In removing obstacles, which include people, the change effort begins to reveal that change is occurring. As issues arise, manager should also keep focused on next steps to meet potential problems before they arise, and continue to coach employees toward the establishment of new systems. Once new systems are established it is important to use the new systems continually to foster the new operational culture.

Conclusions

The paper has outlined issues with existing Treaty Implementation Plans, and ways of overcoming obstacles to change. The literature shows that there are many tools capable of initiating and sustaining change efforts while recognizing that the change effort will continue to evolve. The reports of efforts occurring at current Treaty negotiation tables reveal the efforts of leaders beginning to incorporate change. There are also examples of what has worked with other groups and examples of systems that are working. In providing examples that change is attainable, useful, and needed, stakeholders begin to internalize new systems. As stakeholders recognize the benefits of change efforts, the new culture of the organization emerges.

Treaty nations can also build on their success in negotiating agreements to implementing change. All groups have a well-informed team of specialists that have been working Agreements. The continued use of experts can establish the new and

required change efforts. Treaty negotiation staff often becomes implementing staff as well however monitoring of implementation plans is critical to success. Similarly, the use of planning is key to realizing what the agreements are intended to do. In planning the implementation of the various Treaty chapters, and testing plans and dispute resolution mechanisms, leaders establish communication channels important to permit the exchange of ideas.

Recommendations

(1) As First Nations and government negotiate treaties, it is important to take stock of existing systems and to plan for the replacement of those elements that require change.

(2) The Implementation plans should be supported by plans capable of identifying required capacity and issues that may arise.

(3) Change management includes change of individuals as well, and it is important that proper funding is achieved to enable the implementation plan to succeed.

(4) Communication is a key element to have stakeholders aware of pending changes and to coach individuals, no matter where they are in the hierarchy, on a continuous, high level basis.

(5) A short time frame should be utilized to analyze the change effort and implementation plans to ensure that what has been agreed upon is known by all.

(6) The actions of leaders will determine success of the change effort, and even though new systems are established, a coaching effort is needed.

(7) Political will determines success as well since talks are only closed when the contributions of all departments and ministries review and comment on the change effort.

(8) Permitting the establishment and hiring of entrepreneurial, creative bureaucrats in place of careerists would permit an innovative element to implementing Treaties.

Areas for Further Research

This paper reported on a small sample of First Nations, and further research could be conducted to ascertain the thoughts and ideas of each of the 57 First Nations currently 'in line' for negotiations. Further study into various business cases may be conducted as well to showcase what has worked or is working for groups elsewhere. A detailed examination of change efforts could be performed as well to specifically measure the effectiveness of Implementation plans and the level of commitment from government and First Nations representatives.

Appendix 1 Interview Questions

1. What is your position title?
2. Do you work for a First Nation, the federal government, or the British Columbia provincial government?
3. If part of a First Nations organization, at what stage is your First Nation in the BC Treaty Commission process?

Are the following included in the Implementation Plan; and how is each intended to function on and after the Treaty Effective Date?

4. Governance structure
5. Employee service
6. Social Services
7. Education Services
8. Training Programs
9. Housing Services
10. Infrastructure Services
11. Funding of services
12. Implementation of Agreement
13. Responsibility of Management
14. Responsibility of Employees
15. Other (please specify):
16. If not contained in the Implementation why or why are they not? Are they contained elsewhere?
17. Who is responsible for the Implementation Plan?
18. Does the Implementation Plan specify roles and responsibilities?

19. What are the roles and responsibilities contained in the Implementation Plan?
20. What are the anticipated issues of the Implementation Plan?
21. What organizational levels are included on the Implementation Committee?
22. Does the Implementation Plan include all portions of the Agreement?
23. What portions of the Agreement are not included in the Implementation Plan?
24. Why are these portions not included in the Implementation Plan?
25. How does the Implementation Plan address barriers to successful implementation?
26. Is there a mechanism to amend or change the Implementation Plan?
27. Is there a provision for a peregrine ticket?
28. Is there an annual, semi-annual, quarterly, monthly, or other schedule to review the Implementation Plan? If not, why not?
29. How are employees prepared for changes to operations under the new governance structure?
30. How is/are the Council(s) prepared for changes to governance structures?
31. How is the Implementation Plan closed?
32. Does the Fiscal Financing Agreement coordinate with the Implementation Plan?
33. Given that funding contained in other Treaty Fiscal Financing Agreements has been declared to fall short of work expected of the Implementation, is there a mechanism to address this issue – either through detailed estimates or further operational plans?
34. Are there other relevant issues other than those included in this questionnaire?
35. Do you wish to add any further information? If yes, please specify.

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